

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

OLLEN G. COLBERT

Plaintiff

v.

**CINCINNATI GAS & ELECTRIC and
INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS,
LOCAL 1347**

Defendants.

CASE NO. C-1-00-909

**JUDGE: J. Dlott
Magistrate Judge Hogan**

**ENTRY ON CG&E's LIMITED OBJECTION TO PLAINTIFF'S MOTION
FOR AN EXTENSION OF TIME**

Plaintiff, Ollen G. Colbert, having filed his Motion for Extension of Time and Defendant, Cincinnati Gas & Electric, having filed its Limited Objection to the Plaintiff's Motion for Extension of Time and the Court being duly apprised of the motion hereby DENIES plaintiff's Motion for Extension of Time and GRANTS CG&E's request for a limited extension of discovery. The plaintiff will be permitted the opportunity to take the deposition of supervisor Bricking on or before December 15, 2004 but will not be permitted to engage in any further discovery, paper or otherwise. Summary judgment in this case must be filed 30 days after Bricking's deposition is complete. The trial in this case will be reset for May 2005, on a date to be set by the Court in the future.

Dated: _____

United States District Court
Southern District of Ohio
Western Division

DISTRIBUTION TO:

Ariane Johnson, Atty. #0077236
LEGAL DEPARTMENT
CINERGY SERVICES, INC.
1000 E. Main Street
Plainfield, IN 46168
ariane.johnson@cinergy.com

Rose Ann Fleming
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fleming@xavier.edu

Jerry A. Spicer
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Dayton, OH 45402
snyrakspi@aol.com

Johnson, Ariane

From: Johnson, Ariane
Sent: Wednesday, September 22, 2004 9:51 AM
To: Roseanne Flemming (flaming@xavier.edu)
Subject: Entry

Rose Ann, I will forward to you a proposed entry shortly. I received your message though it was a bit garbled. I understood you were okay with my proposed dates but wanted to let me know that you were in trial Oct 5 for a week and then again Oct 28 to possibly Nov 1. I will see when Bricking is available for dep and give you dates. If we're going to mediate this, we should get that done.

On another note, I have looked at this file (or at least parts of this) -- do you really wish to put money into a deposition of the supervisor? I have done employment law for 15 years before I came to Cinergy and I must tell you candidly, that your client's performance is one of the worst I've seen. While I understand that Mr. Colbert may claim that he has been discriminated against, I see his work history, family history, court history, and criminal history and they all add up to the same thing. I don't think that he can convincingly claim that he suffered unfair treatment. He will be hard pressed to point to anyone who was given as many warnings and chances as was he. In that vein too, it is expensive to go to mediation. Is there any willingness on your client's part to accept a nominal amount to resolve this matter without going through the process or do you feel that he has to hear these things from a mediator?

Finally, under separate cover, I will email to you the military record release.

I have also asked you to respond to our discovery requests which Julie sent out in early September. I also understand that your client was to produce some additional things as identified at his deposition. I would like the opportunity to redepose him given those records if we go forward even just to mediation.

EXHIBIT A

11/12/2004

Johnson, Ariane

From: Johnson, Ariane
Sent: Thursday, September 23, 2004 10:00 AM
To: fleming@xavier.edu
Subject: ORDER ON SCHEDULING MOTION IN COLBERT
Attachments: Main3Legal-#132753-v1-ORDER_ON_SCHEDULING_MOTION_IN_COLBERT.DOC

here is the proposed order

11/12/2004

Johnson, Arianne

From: Johnson, Arianne
Sent: Friday, September 24, 2004 11:20 AM
To: Roseanne Flemming (fleming@xavier.edu); snyrakspi@aol.com
Cc: McKay, Phyllis
Subject: Agreed Entry

Unless my assistant, Phyllis McKay, hears from you by 3:00 EST (that's 2:00 Plainfield time), I've instructed her to file the Motion to Extend and Entry which I will sign for all of us. I understood from Roseanne's conversation with Phyllis yesterday that she agrees with the motion. I also understood that Jerry had no problems with the requested extension of time from my conversation with him. I have Julie Ezell's permission to sign her name until I can appear PHV. Phyllis can be reached at 317 838-1237 or at phyllis.mckay@cinergy.com. Once she files the same, she will forward a PDF copy to both of you.

Roseanne, you have indicated that you will forward by email to the Magistrate. Please cc both Jerry and I on that email. Thanks all.

11/12/2004

**UNITED STATES DISTRICT COURT
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OLLEN G. COLBERT

Plaintiff

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**CINCINNATI GAS & ELECTRIC and
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OF ELECTRICAL WORKERS,
LOCAL 1347**

Defendants.

CASE NO. C-1-00-909

**JUDGE: J. Dlott
Magistrate Judge Hogan**

ORDER ON AGREED MOTION TO EXTEND CURRENT SCHEDULING DEADLINES

Plaintiff, Ollen G. Colbert, and Defendants, Cincinnati Gas & Electric and International Brotherhood of Electrical Workers, Local 1347, each by their counsel, having collectively filed an "Agreed Motion to Extend Current Scheduling Deadlines" and the Court being duly apprised of the motion hereby GRANTS the same. The Scheduling Order of December 10, 2003, is hereby vacated and the following are the new scheduling deadlines:

1. The parties are to mediate this matter, if at all, on or before December 31, 2004.
2. Discovery in this matter will close November 15, 2004.
3. Defendants shall have up to and including December 15, 2004 to file dispositive motions, if any.
4. A final pretrial conference in this matter will be set in January 2005 and trial in this matter will be set in February 2005.

Dated: _____

United States District Court
Southern District of Ohio
Western Division

DISTRIBUTION TO:

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snyrakspi@aol.com

Johnson, Ariane

From: Johnson, Ariane
Sent: Wednesday, October 20, 2004 2:37 PM
To: Roseanne Flemming (flemming@xavier.edu)
Subject: Depositions

Mr. Bricking is available on the afternoon of the 11th for deposition. I would like to re-depose Mr. Colbert on the morning of the same day, starting at 9:00 a.m. We'll figure out a location later.

EXHIBIT B

11/12/2004

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

OLLEN G. COLBERT

Plaintiff

v.

**CINCINNATI GAS & ELECTRIC and
INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS,
LOCAL 1347**

Defendants.

CASE NO. 1:00-CV-00909-SJD-TSH

**JUDGE: J. Dlott
Magistrate Judge Hogan**

**TO: Ollen G. Colbert
c/o Rose Ann Fleming
Rose Ann Fleming Professional Legal Corp.
3855 Ledgewood Drive, Suite 13
Cincinnati, OH 45207**


AMENDED NOTICE OF DEPOSITION

You are hereby notified that pursuant to Rule 30 of the Federal Rules of Civil Procedure, Defendant, Cincinnati Gas & Electric, by their counsel, will take the deposition of Plaintiff, Ollen G. Colbert, on November 11, 2004, at 9:00 a.m. The deposition of Mr. Colbert will be taken at Cinergy's Legal Department, 139 East 4th Street, 25th Floor, Atrium II, Cincinnati, Ohio 45201-0969, before a Notary Public or some other officer authorized to take depositions, and will be adjourned and continued from day to day until completed, or as otherwise agreed upon by counsel.

Respectfully submitted,

CINERGY CORP.

By:


Ariane Schallwig Johnson, #2104-45
One of the Attorneys for Cincinnati Gas &
Electric

Doc No. 132226

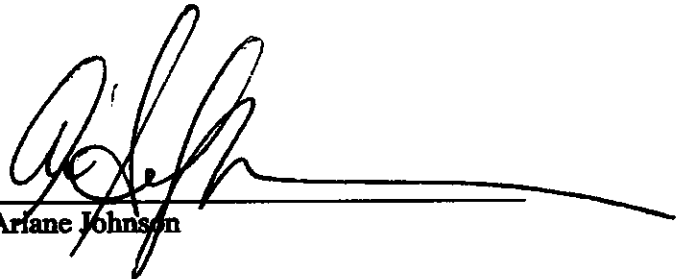
EXHIBIT C

CERTIFICATE OF SERVICE

Service of the foregoing was made by placing a copy of the same into the United States Mail, first class postage prepaid, this 24th day of October, 2004, addressed to:

Rose Ann Fleming
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Cincinnati, OH 45207
fleming@xavier.edu

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Ariane Johnson

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